REMARKS

The Office Action dated April 28, 2004 has been carefully considered. Claims 1, 4, 5 and 6 are currently amended. Claims 7 and 8 are allowed. Claims 1-11 are currently pending.

35 USC §112, ¶2 Rejections

Claim 5 stands rejected under 35 USC § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Office Action indicates that it is not clear to what the phrase "effective amount" is referred. Claim 5 is amended to depend on claim 4 and clarify that the phrase "effective amount" is referring to said compound of claim 4. Withdrawal of the rejection is therefore requested.

Rejection under 35 U.S.C. § 102

Claims 1-6 and 10-11 are rejected under 35 U.S.C. § 102(b) as being unpatentable over Seemann et al (1996; Molecular Biology of the Cell 7:1359-1374) and over Croxtall et al. 1993. Claim 9 was not specifically mentioned by the Office Action but also stands rejected. In response, independent claims 1, 4 and 6 have been amended to specify that the compound contains 5-11 amino acids. Support for this amendment can be found at page 4, lines 3 and 4 of the specification (WO 00/05255).

The Applicant respectfully asserts that this limitation distinguishes the claims over both Seemann et al and Croxtall et al. Neither Seeman et al. not Croxtall et al. disclose or in any way suggest a polypeptide of 5-11 amino acids in length.

Additionally, Seemann et al. is not directed toward the subject matter of the invention as presently claimed. Contrary to the Examiner's assertion that disclosure of cow Annexin 1 to immunize mice constitutes disclosure of a pharmaceutical composition, it is submitted that a "pharmaceutical" pertains to a medicine. For support, attached is a dictionary definition of the term pharmaceutical to this effect. Seemann et al. discloses immunization of mice with full-length cow Annexin 1 for the sole purpose of raising monoclonal antibodies. Seemann et al. neither teaches nor suggests any medical or therapeutic benefit to the mice (or any other animal), in contrast to the invention as presently claimed.

Similarly, Croxtall et al. is also not directed toward the subject matter of the invention as presently claimed. Even if the disclosures of Croxtall et al are taken at face value, it clearly states that LC-1_{1-12}, is inactive by itself and only affects cell proliferation in the presence of EGF (page 155, left-hand column, lines 3-6). Croxtall et al. is a paper directed at unraveling the molecular mechanisms of cell growth and differentiation and contains no discussion, disclosure or suggestion of a therapeutic use for LC-1_{1-12}, let alone a peptide of 5-11 amino acids as now claimed.

Moreover, with regard to the Examiner's assertion that disclosure of the LC-1_{1-12} polypeptide in DMEM/F-12 medium constitutes disclosure of a pharmaceutical composition, it must be noted that DMEM/F-12 comprises fetal calf serum, which would make it unsuitable for pharmaceutical composition. Accordingly, there is no disclosure in Coxtall et al. of a pharmaceutical composition. Still less, there is no disclosure in Coxtall et al. of use of such a composition in the treatment or prevention of information or leukocyte migration.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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